GOVERNMENT OF INDIA
HEALTH AND FAMILY WELFARE
LOK SABHA

UNSTARRED QUESTION NO:3633
ANSWERED ON:12.12.2001
PUBLIC HEALTH POLICY AND WTO DOHA
DR. KIRIT SOMAIYA;SUNIL KHAN

Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

(a) whether Ministerial Conference of WTO on Public Health Policy was held at Doha recently;

(b) if so, the salients features discussed therein;

(c) the outcome thereof; and

(d) the reaction of the Government thereto?

Answer

MINISTER OF HEALTH AND FAMILY WELFARE (DR. C.P. THAKUR)

(a) to (d): The WTO Ministerial Conference was held at Doha, Qatar from 9th to 14th November, 2001.The conference adopted a declaration on the 14th November, 2001 on the TRIPS Agreement and Public Health. The Declaration inter-alia, recognizes the gravity of public health problems afflicting many developing countries and agrees that the TRIPS Agreement does not and shouldnot prevent Members from taking measures to protect public health. The Declaration affirms that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Member`s right to protect public health and, in particular, to promote access to medicines for all. It reaffirms the rights of WTO Members to use, to the full, the provisions in the TRIPSAgreement, which provides flexibility for this purpose. Full text of the Declaration on the TRIPS Agreement and Public Health is at Annexure-I.

The Hon`ble Minister of Commerce & Industry, in a statement in the Lok Sabha on 22.11.2001, has clearly stated that the Declaration on TRIPS and Public Health is a major achievement and it recognizes the affordability and availability of medicines as a universal right. It would now enable Member countries to take measures to protect public health as the Declaration recognizes the flexibility under the TRIPS Agreement when dealing with public health problems affecting human beings, such as HIV/AIDS, Malaria, and othe epidemics and the respective national Governments could decide about emergencies and epidemics.

ANNEXURE-1

WORLD TRADE ORGANIZATION
WT/MIN(01)/DEC/2
20 November 2001 (01-5860)

MINISTERIAL CONFERENCE

Fourth Session
Doha, 9-14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

Adopted on 14 November 2001

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.

2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.

3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the

concerns about its effects on prices.

4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members` right to protect public health and , in particular, to promote access to medicines for all.

In this connection, we reaffirm that right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:

(a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.

(b) Each Member has the right to grant compulsory licenses and the freedom to determine the grounds upon which such licences are granted.

(c) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.

(d) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement.We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without projudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement.We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.